

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civ. No. 1:09-cv-00490-SS
)	
v.)	
)	
STATE OF TEXAS, <i>et al.</i> ,)	
)	
Defendants.)	

JOINT MOTION TO MODIFY THE JUNE 29, 2009 ORDER

Pursuant to Paragraph III.Z of the Settlement Agreement (“Agreement”)¹ between Plaintiff, United States of America, and Defendants, the State of Texas *et al.* (“State” and collectively “the Parties”), the Parties respectfully move this Court for entry of an order (“Modification Order”) that 1) modifies the terms of the Court’s June 29, 2009 Order² to conform to the Parties’ proposed modifications to the Agreement, which are memorialized in the Amended Settlement Agreement submitted herewith as Exhibit A (“Amended Agreement”); and 2) continues the Court’s retained jurisdiction to enforce the Agreement as modified by the Amended Agreement.

In 2014, the Parties informed the Court that they were engaged in extensive efforts to modify the Agreement in force in this action, in order to “direct the State’s compliance efforts, and the associated monitoring, more fully toward achievement of the Agreement’s intended outcomes

¹ Paragraph III.Z of the Agreement requires that any modification “be executed in writing” and “filed with the Court for its approval.” ECF No. 2 at 41.

² The June 29, 2009 Order granted the Parties’ joint motion for entry of the Agreement, conditionally dismissed the action pursuant to Fed. R. Civ. P. 41(a)(2), subject to notification of selection of a Monitor, and retained jurisdiction to enforce the terms of the Agreement, which was incorporated by reference into the Order. *See* ECF No. 4.

and away from more procedurally focused provisions; strengthen services for persons leaving the SSLCs [State Supported Living Centers] to live in community settings; and set out revised compliance deadlines.” ECF No. 21 at 2. Pending finalization of an Amended Agreement, the Parties also sought, and received, permission to adopt and use a new process, called the Quality Sampling Review (QSR) process, for monitoring compliance with the Settlement Agreement. ECF Nos. 23, 25, 26.

Over the course of 2014, 2015, 2016, and 2017, the Parties negotiated an Amended Agreement memorializing the changes described in the above filings. Pursuant to Texas Civil Practice and Remedies Code Chapter 111, the State obtained ratification of the Amended Agreement by the Texas Legislature in June 2017. *See* Sen. Concurring Res. 33 (2017). Subsequent to that date, the State sought additional changes, and the Parties reengaged in negotiations. They have now finalized a mutually acceptable Amended Agreement.

In the Amended Agreement, the Parties have agreed to focus the State’s obligations more directly on improved outcomes for SSLC residents. The Amended Agreement permits an SSLC to be released from further monitoring as to any provision that is in sustained compliance, regardless of whether other provisions in the same substantive section remain out of compliance. Upon the Court’s approval of the Amended Agreement, the Parties will file a notice with the Court setting out the status of compliance and will file an updated notice after each round of monitoring of all thirteen SSLCs.

Finally, the Amended Agreement includes non-substantive edits, such as updates to agency names, formatting changes, and revisions that align the document with the current monitoring process. A redline comparison of the Agreement and the Amended Agreement is attached herewith as Exhibit B.

In light of the foregoing, the Parties respectfully request that the Court enter the attached proposed Modification Order modifying the terms of the Court's June 29, 2009 Order to conform to the Amended Agreement and continuing the Court's jurisdiction to enforce the Agreement as modified by the Amended Agreement.

September 1, 2021

Respectfully submitted,

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A handwritten signature in blue ink, appearing to read 'Albright', is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically submitted for filing, a true and correct copy of the above and foregoing Joint Motion to Modify the June 29, 2009 Order, in accordance with the Electronic Case Filing System of the Western District of Texas on this 1st day of September, 2021, which will send notification to the following:

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